

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 426B.5(2)(f), the Department of Human Services amends Chapter 25, "Disability Services Management," Iowa Administrative Code.

These amendments update provisions for operations of the Risk Pool Board to conform to changes enacted in 2009 Iowa Acts, Senate File 478, section 181. Notwithstanding the deadlines provided in Iowa Code section 426B.5(2), that legislation provides that for state fiscal year 2010:

- Applications for risk pool funding are due to the Department by July 1, instead of October 31;
- Risk Pool Board decisions on those applications shall be made by August 15, instead of December 15; and
- The Department shall distribute risk pool funds by September 15, instead of January 1.

These amendments also make technical changes to correct an address, cross-reference relevant statutory provisions, and clarify language.

These amendments do not provide for waivers in specified situations. The Department does not have authority to waive statutory provisions.

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on May 27, 2009.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because the amendments merely conform the rules to the legislation and make technical changes to correct errors. The Department also finds that notice and public participation are impracticable because the July 1 deadline for applications does not allow time for notice and public participation.

The Department finds that these amendments confer a benefit by clarifying instructions to counties seeking risk pool funding. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are intended to implement 2009 Iowa Acts, Senate File 478, section 181.

These amendments became effective June 1, 2009.

The following amendments are adopted.

ITEM 1. Amend subrule 25.62(5) as follows:

**25.62(5) Board meetings.**

a. The board shall meet in ~~November~~ August of each year and may hold special meetings at the call of the chairperson or at the request of a majority of the voting members.

b. Any county making application for risk pool funds must be represented at the board meeting for awarding funds when that request is considered.

(1) The division shall notify the county of the date, time and location of the meeting.

(2) Any other persons with questions about the date, time or location of the meeting may contact the Administrator, Division of Mental Health and Disability Services, Department of Human Services, Hoover State Office Building, Fifth Floor, 1305 East Walnut Street, Des Moines, Iowa ~~50309-0114~~ 50319-0114, telephone (515)281-7277.

c. The board shall comply with applicable provisions of Iowa's open meetings law, Iowa Code chapter 21.

ITEM 2. Amend subparagraph **25.63(1)"b"(2)** as follows:

(2) To avoid the need for reduction or elimination of:

1. Critical services, creating risk to a consumer's health or safety;
2. Critical emergency or mobile crisis services, creating risk to the public's health or safety;
3. and 4. No change.

ITEM 3. Amend paragraph **25.63(2)“b”** as follows:

*b. Deadline.* The division must receive the application no later than 4:30 p.m. on ~~October 31~~ July 1 of each year; or, if ~~October 31~~ July 1 is a holiday, Saturday or Sunday, the division must receive the application no later than 4:30 p.m. on the first working day thereafter.

ITEM 4. Amend subrule 25.63(3) as follows:

**25.63(3) Request for additional information.** Staff shall review all applications for completeness. If an application is not complete, staff of the division shall contact the county within four working days after ~~October 31 or the first working day thereafter, if October 31 is a holiday, Saturday or Sunday,~~ July 1 to request the information needed to complete the application. If July 1 is a holiday, Saturday or Sunday, the division shall make this contact within five working days after July 1. The county shall submit the required information within five working days from the date of the division’s request for the additional information.

ITEM 5. Amend rule 441—25.64(426B) as follows:

**441—25.64(426B) Methodology for awarding risk pool funding.** The risk pool board shall make an eligibility decision on each application within 45 days after receiving the application and shall make a funding decision no later than ~~December 15~~ August 15.

**25.64(1)** No change.

**25.64(2) Distribution of funds.** The total amount of the risk pool shall be limited to the available pool for a fiscal year.

*a.* If the total dollar amount of the approved applications exceeds the available pool, the board shall prorate the amount paid for an approved application. The funds will be prorated to each county based upon the proportion of each approved county’s request to the total amount of all approved requests.

*b.* The division shall authorize the issuance of warrants payable to the county treasurers for the amounts due. The warrants shall be issued on or before September 15.

ITEM 6. Amend subrule 25.65(2) as follows:

**25.65(2) Year-end report.** Each county granted risk pool funds shall complete a year-end financial report as required by Iowa Code section 225C.6A(2)(c)(3). The division shall review the accrual information and notify the mental health risk pool board if any county that was granted assistance in the prior year received more than the county’s actual need based on the submitted financial report.

[Filed Emergency 5/29/09, effective 6/1/09]

[Published 6/17/09]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 6/17/09.